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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 UNITED STATES OF AMERICA,
11
12 Plaintiff,
13
14 v.
15 AARON WADE FERGUSON,
Defendant.

Case No. 2:20-mj-00056-VCF

ORDER **TO CONTINUE**
PRELIMINARY HEARING
(Sixth Request)

16 IT IS HEREBY STIPULATED AND AGREED, by and between
17 Nicholas A. Trutanich, United States Attorney, and Bianca R. Pucci, Assistant United States
18 Attorney, counsel for the United States of America, and Rene L. Valladares, Federal
19 Public Defender, and Rebecca A. Levy, Assistant Federal Public Defender, counsel for
20 Aaron Wade Ferguson, that the Preliminary Hearing currently scheduled on Tuesday,
21 October 20, 2020 at 4:00 p.m., be vacated and continued to a date and time convenient to the
22 Court, however no sooner than ninety (90) days.

23 This Stipulation is entered into for the following reasons:
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1 1. On March 11, 2020, the World Health Organization officially classified
2 COVID-19 a pandemic.¹ Governor Steve Sisolak declared a State of Emergency in Nevada on
3 March 12, 2020. On March 16, 2020, the CDC recommended that all in-person events
4 consisting of 10 or more people be postponed or cancelled throughout the United States.²

5 2. In response to the COVID-19 pandemic, this Court issued a series of Temporary
6 General Orders changing how the Court Operates to do its part to contain the spread of the
7 virus. Amended Temporary General Order 2020-03. In Temporary General Order 2020-03, the
8 Court continued all jury trials until April 10, 2020, pending further order. *Id.* Then, on
9 April 9, 2020, this Court amended Temporary General Order 2020-03 stating that “[t]he Court
10 has determined that jury trials must be further postponed in light of the COVID-19 pandemic,
11 and each presiding judge will address any needed continuance of trial in their individual cases.”
12 Amended Temporary General Order 2020-03. On August 27, 2020, Chief Judge Du entered
13 Second Amended General Order 2020-03, which allows courtrooms to incrementally begin to hold
14 jury trials in accordance with the Court’s internal plan for resuming jury trials.

15 3. In light of this pandemic, the growing number of infected individuals in the State
16 of Nevada and worldwide, and the CDC’s recommendations, counsel for the defendant needs
17 additional time to review the discovery and conduct investigation in this case in order to
18 determine whether there are any issues that must be litigated prior to the case proceeding to
19 preliminary hearing or otherwise.

20 4. The Defendant is in custody and does not object to the continuance.

21 5. The parties agree to the continuance.

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24 ¹ *WHO Characterizes COVID-19 as a Pandemic*, World Health Organization (Mar.
25 11, 2020) at <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>.

26 ² Center for Disease Control: COVID-19 <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/> (last visited Mar. 24, 2020).

1 6. This continuance is not sought for purposes of delay, but to account for the
2 necessary social-distancing in light of the COVID-2019 public health emergency, to allow the
3 defense adequate time to prepare following the resolution of this public health emergency, to
4 allow counsel for defendant sufficient time within which to be able to effectively complete
5 investigation of the discovery materials provided.

6 7. Federal Rule of Criminal Procedure 5.1(d) provides that a magistrate judge may
7 extend the time limits in Rule 5.1(c) with the defendant's consent and upon a showing of good
8 cause taking into account the public interest in the prompt disposition of criminal cases.
9 Because of the COVID-19 pandemic, and the resulting various closures and resource
10 limitations, good cause exists to allow the defense more time to prepare for the preliminary
11 hearing.

12 8. Additionally, denial of this request for continuance could result in a miscarriage
13 of justice. The additional time requested by this Stipulation is excludable in computing the time
14 within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United
15 States Code, Section 3161(b) and (h)(7)(A), considering the factors under Title 18, United
16 States Code, Section 3161(h)(7)(B)(i), (iv).

17 This is the sixth request for continuance filed herein.

18 DATED this 15th day of October 2020.

19
20 RENE L. VALLADARES
21 Federal Public Defender

 NICHOLAS A. TRUTANICH
 United States Attorney

22 /s/ Rebecca A. Levy
23 By _____

 /s/ Bianca R. Pucci
 By _____

24 REBECCA A. LEVY
25 Assistant Federal Public Defender

 BIANCA R. PUCCI
 Assistant United States Attorney

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

4 Plaintiff,

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6 AARON WADE FERGUSON,

7 Defendant.

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FINDINGS OF FACT AND ORDER

9 **FINDINGS OF FACT**

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11 Based on the pending Stipulation between the defense and the government, and good
12 cause appearing therefore, the Court hereby finds that:

13 1. To account for the necessary social-distancing in light of the COVID-2019
14 public health emergency and with the defendant's consent, the preliminary hearing in this case
15 should be continued for good cause. The additional time requested herein is also sought to
16 permit defendant time to review discovery and conduct investigation in this case in order to
17 determine whether there are any issues that must be litigated prior to the case proceeding to
18 preliminary hearing or otherwise.

19 2. The parties agree to this continuance.

20 3. The defendant is incarcerated but does not object to the continuance.

21 4. The additional time requested herein is not sought for purposes of delay, but
22 merely to allow counsel for the defendant sufficient time within which to be able to effective
23 and complete investigation of the discovery materials provided by the government.

24 5. Denial of this request could result in a miscarriage of justice, and the ends of
25 justice served by granting this request outweigh the best interest of the public and the defendant
26 in a speedy trial.

6. The additional time requested by this stipulation is excludable in computing the time within which the indictment must be filed pursuant to Federal Rules of Criminal Procedure 5.1(d), the Speedy Trial Act, Title 18, United States Code, Section 3161(b), and considering the factors under Title 18, United States Code, Section 3161(h)(7)(A) and (B)(i) and (iv).

ORDER

IT IS THEREFORE ORDERED that the Preliminary Hearing currently scheduled on Tuesday, October 20, 2020 at the hour of 4:00 p.m., be vacated and continued to January 26, 2021 at 4:00 pm in LV Courtroom 3D before Magistrate Judge Cam Ferenbach

DATED this 16 day of October 2020.

Car. Fackel

UNITED STATES MAGISTRATE JUDGE